

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Handwritten signature/initials

In re Patent Application of:

Daniel R. POTTER ET AL.

Examiner: Andrew J. Rudy

U.S. Pat. App. No.: 10/099,685

Group Art Unit: 3627

Filed: March 14, 2002

Atty. Docket No.: 005127.00033

For: CUSTOM FIT SALE OF FOOTWEAR

**RESUBMISSION OF INFORMATION DISCLOSURE STATEMENT
TO INCLUDE U.S. PATENT REFERENCES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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GROUP 3600

Sir:

On October 29, 2003, Applicants timely filed an Information Disclosure Statement, including Form PTO 1449, and a Statement Under 37 C.F.R. §1.704(d), in order to submit references found in a related PCT International Search Report. In that Information Disclosure Statement, Applicants erroneously omitted the U.S. patent references, and respectfully submit them herewith. A complete copy of Applicants' Information Disclosure Statement submission of October 29, 2003 is enclosed.

Applicants believe that no fees are required for the submission of the U.S. references, but if the Commissioner deems that any fees are necessary, then the Commissioner is authorized to charge said fees to Deposit Account No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.

December 5, 2003

By: *Thomas L. Evans*
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Telephone: (202) 824-3000
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Atty. Docket No.
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INFORMATION DISCLOSURE STATEMENT

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Sir:

Pursuant to their duty of disclosure under 37 C.F.R. §1.56, Applicants bring the following documents to the attention of the Examiner in the above-identified patent application:

- (1) U.S. Patent No. 6,601,042 to Lyden, issued July 29, 2003;
- (2) U.S. Patent No. 6,463,351 to Clynnch, issued October 8, 2003; and
- (3) Excerpt from DigiToe, Inc.'s Website entitled "Custom Fit Footwear (a short story)," dated 1998, four pages.

A PTO-1449 form is included herewith listing these documents. Copies of references (1) and (2) are not included herewith, but Applicants enclose a copy of reference (3). These documents were cited in an International Search Report for a related PCT application, a copy of which is attached.

The International Search Report is in English. Therefore, Applicants respectfully urge that further comment is unnecessary in accordance with 37 C.F.R. 1.98(a)(3). However, Applicants respectfully point out that the International Search Report classifies these documents in categories E, P and Y.

Applicants believe that no fees are required for the Examiner's consideration of the documents listed in this Information Disclosure Statement. If, however, the Commissioner deems that any fees are necessary for the filing of this Information Disclosure Statement, then the Commissioner is authorized to charge said fees to Deposit Account No. 19-0733.

It is respectfully requested that the documents listed above be considered by the Examiner in the above-identified patent application and that they be made officially of record therein. It is further requested that a listing of the same appear on the face of any patent that may issue from this application.

Respectfully submitted,

BANNER & WITCOFF, LTD.

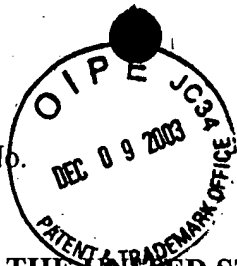
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October 28, 2003

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Atty. Docket No.
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In re Patent Application of:

Daniel R. POTTER ET AL.

Examiner: Andrew J. Rudy

U.S. Pat. App. No.: 10/099,685

Group Art Unit: 3627

Filed: March 14, 2002

For: CUSTOM FIT SALE OF FOOTWEAR

STATEMENT UNDER 37 C.F.R. §1.704(d)

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Sir:

In accordance with 37 C.F.R. 1.704(d), Applicants hereby state that each item of information contained in the attached Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application, and that this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

Respectfully submitted,

BANNER & WITCOFF, LTD.

By: Thomas L. Evans
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October 28, 2003

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Approved for use through 10/31/2002. OMB 065-0031

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(to be used for all correspondence after initial filing)

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|------------------------|-------------------------|
| Application Number | 10/099,685 |
| Filing Date | March 14, 2002 |
| First Named Inventor | Daniel R. Potter et al. |
| Group Art Unit | 3627 |
| Examiner Name | Andrew J. Rudy |
| Attorney Docket Number | 005127.00033 |

Total Number of Pages in This Submission

ENCLOSURES (check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1) Copy of International Search Report; 2) Statement Under 37 CFR 1.704(d); 3) Copy of Digltoe, reference; 4) Return Postcard |
|---|--|---|

Remarks

The Commissioner is hereby authorized to charge any necessary fees, including any fees under 37 CFR §1.16 or 37 CFR §1.17, to Deposit Account No. 19-0733.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------|---|
| Firm or Individual name | Thomas L. Evans, Banner & Witcoff, Ltd. |
| Signature | <i>Thomas L. Evans</i> |
| Date | October 28, 2003 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on:

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